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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

JACOB ATKINSON, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

HERC RENTALS INC, a foreign profit
corporation; HERC RENTALS EMPLOYEE
SERVICES LLC, a foreign limited liability
company; and DOES 1-20,

Defendants.

No.

CLASS ACTION COMPLAINT FOR
DAMAGES, INJUNCTIVE RELIEF,
AND DECLARATORY RELIEF

Plaintiff Jacob Atkinson, on behalf of himself and all others similarly situated (the
“Class”), by and through counsel, brings this Class Action Complaint against the above-captioned
Defendants (collectively, “Defendants”) and alleges, upon personal knowledge as to Plaintiff’s
own actions and Plaintiff’s counsel’s investigations, and upon information and belief as to all other
matters, as follows:

I. NATURE OF THE CASE

1. Effective January 1, 2023, employers must disclose in each posting for each job
opening, the wage scale or salary range and a general description of all of the benefits and other
compensation to be offered to the hired applicant. RCW 49.58.110(1).

2. The Washington Legislature finds that “despite existing equal pay laws, there
continues to be a gap in wages and advancement opportunities among workers in Washington.”

CLASS ACTION COMPLAINT FOR DAMAGES,
INJUNCTIVE RELIEF, AND DECLARATORY RELIEF - 1

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1 RCW 49.58.005(1). The Legislature further finds that “lower starting salaries translate into lower
2 pay, less family income, and more children and families in poverty.” RCW 49.58.005(3)(b).

3 3. “Some folks do not have the networks or ability to negotiate salaries. Salaries vary
4 wildly in companies within the same industry and applicants do not have the ability to know what
5 the value of the position is.” H.B. Rep. ESSB 5761, at 2 (Wash. 2022). The Equal Pay and
6 Opportunities Act (“EPOA”) “allows a discussion at the start of the process instead of after an
7 offer has been made, which will increase the ability to negotiate pay.” *Id.* Additionally, “[m]any
8 candidates spend hours going through rounds of interviews only to find out they can’t live on the
9 offered pay.” S.B. Rep. ESSB 5761, at 3 (Wash. 2022). The EPOA makes Washington “more
10 competitive for job seekers. . . .” *Id.*

11 4. This is a class action on behalf of individuals who applied to job openings with the
12 Defendants where the job postings did not include the wage scale or salary range in direct violation
13 of RCW 49.58.110.

14 II. JURISDICTION AND VENUE

15 5. This Court has jurisdiction over this cause of action pursuant to RCW 2.08.010.

16 6. Venue is proper in this Court pursuant to RCW 4.12.025 because the acts and
17 omissions alleged took place, in whole or in part, in King County, Washington, and each
18 Defendant resides and transacts business in King County, Washington.

19 7. Federal jurisdiction is inappropriate under the Class Action Fairness Act, 28
20 U.S.C. § 1332(d)(4)(A), because: (a) all members of the Class are applicants of Washington
21 employers, or were applicants of Washington employers, at all times relevant to their interactions
22 with Defendants; (b) each Defendant is registered to conduct business, and regularly transacts
23 business, within Washington; (c) the alleged conduct of Defendants occurred within Washington;
24 (d) the injuries to Plaintiff and the Class occurred within Washington; and (e) during the three-
25 year period preceding the filing of this action, no other class action has been filed asserting the
26 same or similar factual allegations against Defendants on behalf of the same persons.
27 Alternatively, federal jurisdiction is inappropriate under the Class Action Fairness Act because:

1 (a) pursuant to 28 U.S.C. § 1332(d)(4)(B), more than two-thirds of the Class reside in Washington;
2 and (b) pursuant to 28 U.S.C. § 1332(2), the amount in controversy does not exceed the sum or
3 value of \$5,000,000, exclusive of interest and costs.

4 III. PARTIES

5 8. Plaintiff Jacob Atkinson is a resident of King County, Washington and applied to
6 work for Defendants at their store located at 8520 216th Street Southeast, Woodinville,
7 Washington 98072.

8 9. Defendant Herc Rentals Inc is a foreign profit corporation that regularly transacts
9 business in King County, Washington and has multiple offices for the transaction of business in
10 King County, Washington, including at 8520 216th Street Southeast, Woodinville, Washington
11 98072 and 5055 4th Avenue South, Seattle, Washington 98134.

12 10. Defendant Herc Rentals Employee Services LLC is a foreign limited liability
13 company that regularly transacts business in King County, Washington and has multiple offices
14 for the transaction of business in King County, Washington, including at 8520 216th Street
15 Southeast, Woodinville, Washington 98072 and 5055 4th Avenue South, Seattle, Washington
16 98134.

17 11. Plaintiff is currently unaware of the true names and capacities, whether individual,
18 corporate, associate, or otherwise, of the defendants sued herein under fictitious names Does 1-
19 20, inclusive, and therefore sues such defendants by such fictitious names. Plaintiff will seek leave
20 to amend this Complaint to allege the true names and capacities of the fictitiously named
21 defendants when their true names and capacities have been ascertained. Plaintiff is informed and
22 believes, and thereon alleges, each of the fictitiously named defendants is legally responsible in
23 some manner for the events and occurrences alleged herein, and for the damages suffered by
24 Plaintiff and the Class.

IV. FACTS APPLICABLE TO THE CLASS AND ALL CAUSES OF ACTION

12. Effective January 1, 2023, all Washington employers are required to disclose in each posting for each job opening the wage scale or salary range, and a general description of all of the benefits and other compensation to be offered to the hired applicant. RCW 49.58.110.

13. For the purposes of RCW 49.58.110, “posting” means any solicitation intended to recruit job applicants for a specific available position, including recruitment done directly by an employer or indirectly through a third party, and includes any postings done electronically, or with a printed hard copy, that includes qualifications for desired applicants. RCW 49.58.110(1).

14. Each Defendant employs more than 15 individuals.

15. From January 1, 2023 to the present, Plaintiff and more than 40 Class members applied to job openings with Defendants for positions located in Washington state where the postings did not disclose the wage scale or salary range.

16. On or about March 9, 2023, Plaintiff applied for a job opening in King County, Washington with Defendants. The posting for the job opening did not disclose the wage scale or salary range. A true and correct copy of Defendants’ job posting is attached hereto as Exhibit 1.

17. Plaintiff and the Class members lost valuable time applying for jobs with Defendants for which the wage scale or salary range was not disclosed to them.

18. As a result of Plaintiff’s and Class members’ inability to evaluate the pay for the position, negotiate that pay, and compare that pay to other available positions in the marketplace, Plaintiff and the Class members were harmed.

19. As a result of Defendants’ actions and omissions, Plaintiff and the Class have been damaged in amounts to be proven at trial.

V. CLASS ACTION ALLEGATIONS

20. Class Definition. Under Civil Rule 23(a) and (b)(3), Plaintiff brings this case as a class action against Defendants on behalf of the Class defined as follows (the “Class”):

All individuals who, from January 1, 2023 through the date notice is provided to the Class, applied for a job opening in the State of Washington with one or more of the Defendants, where the job

posting did not disclose the wage scale or salary range for the position.

21. Excluded from the Class are the Defendants and Defendants' officers, directors, and independent contractors, and any judge to whom this case is assigned, as well as his or her staff and immediate family.

22. Numerosity. There are potentially hundreds of individuals who applied for jobs with Defendants within the time period relevant to this matter. Joinder of all such individuals is impracticable. Further, the disposition of all claims of the Class in a single action will provide substantial benefits and efficiency to all parties and to the Court.

23. Commonality. Because all applicants applied for job openings that did not disclose the wage scale or salary range, this is a straightforward matter of determining whether Defendants' actions violate Washington law, and, if so, assessing damages.

24. Typicality. Plaintiff's claims are typical of the claims of the Class. Plaintiff and Class members all applied for job openings with Defendants that did not disclose the wage scale or salary range.

25. Adequacy. Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff has retained competent and capable attorneys with substantial experience in complex class action litigation. Plaintiff and Plaintiff's counsel are committed to prosecuting this action vigorously on behalf of the Class and have the financial resources to do so. Neither Plaintiff nor Plaintiff's counsel have interests that are contrary to or that conflict with those of the Class.

26. Predominance. Defendants have engaged in a common course of conduct of failing to disclose the wage scale or salary range in job postings in violation of RCW 49.58.110. The common issues arising from Defendants' unlawful conduct affect Plaintiff and Class members and predominate over any individual issues. Adjudication of these common issues in a single action has the important and desirable advantage of judicial economy.

27. Superiority. Plaintiff and the Class have suffered, and will continue to suffer, harm and damages as a result of Defendants' unlawful and wrongful conduct. Absent a class action,

1 however, most Class members would find the cost of litigating their claims prohibitive, especially
 2 when that cost is balanced against each individual's respective potential award. Class treatment is
 3 superior to multiple individual suits or piecemeal litigation because it conserves judicial resources,
 4 promotes consistency and efficiency of adjudication, provides a forum for claimants with smaller
 5 cases and those with few resources, and deters illegal activities. There will be no significant
 6 difficulty in the management of this case as a class action. The Class members and the job postings
 7 to which they applied are readily identifiable through Defendants' own records.

8 **VI. CAUSES OF ACTION**

9 **FIRST CAUSE OF ACTION** 10 **VIOLATION OF RCW 49.58.110** 11 ***Claim of Relief for Plaintiff and the Class***

12 28. Plaintiff incorporates by reference all foregoing factual allegations.

13 29. As described more fully above, Defendants did not disclose the wage scale or salary
 14 range in their job postings.

15 30. On or after January 1, 2023, Plaintiff and the Class applied for job openings with
 16 the Defendants where the postings did not disclose the wage scale or salary range.

17 31. Defendants' actions and omissions violate RCW 49.58.110.

18 32. As a result of Defendants' actions and omissions, Plaintiff and the Class have been
 19 damaged in amounts to be proven at trial.

20 **SECOND CAUSE OF ACTION** 21 **INJUNCTIVE RELIEF** 22 ***Claim of Relief for Plaintiff and the Class***

23 33. Plaintiff incorporates by reference all foregoing factual allegations.

24 34. Plaintiff and the Class are entitled to an injunction prohibiting Defendants from
 25 further violations of Washington law. Specifically, Plaintiff seeks injunctive relief to require
 26 Defendants to disclose in each posting for each job opening the wage scale or salary range.
 27

THIRD CAUSE OF ACTION
DECLARATORY RELIEF
Claim of Relief for Plaintiff and the Class

35. Plaintiff incorporates by reference all foregoing factual allegations.

36. Plaintiff and the Class are entitled to a declaration that Defendants' practice of failing to disclose in each posting for each job opening the wage scale or salary range is illegal.

37. Plaintiff and the Class are entitled to a final judicial determination of the amounts owing to Plaintiff and the Class as a result of Defendants' failure to disclose in each posting for each job opening the wage scale or salary range.

VII. REQUEST FOR RELIEF

Plaintiff, individually and on behalf of the members of the Class, requests that the Court enter judgment against Defendants as follows:

1. An Order certifying that this action be maintained as a class action and appointing Plaintiff as Class Representative and Plaintiff's counsel as Class Counsel;

2. Statutory damages equal to Plaintiff's and the Class members' actual damages or five thousand dollars, whichever is greater, pursuant to RCW 49.58.070(1);

3. Costs and reasonable attorneys' fees pursuant to RCW 49.58.070(1);

4. Preliminary and permanent injunctive relief prohibiting, restraining, and enjoining Defendants from engaging in the conduct complained of herein, including, but not limited to, an Order requiring Defendants to disclose in each posting for each job opening the wage scale or salary range;

5. Declaratory relief to the effect that Defendants' failure to disclose in each posting for each job opening the wage scale or salary range violates Washington law;

6. Pre- and post-judgment interest;

7. Leave to amend the Complaint to conform to the evidence; and

8. Any additional or further relief which the Court deems equitable, appropriate, or just.

1 DATED October 10, 2023


EMERY | REDDY, PLLC

2
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EXHIBIT 1

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Mar 7, 2023

Location: Woodinville, Washington, United States


Company: Herc Rentals

Req #: 55037


Founded in 1965, Herc Rentals is one of the leading equipment rental suppliers in North America with trailing twelve month total revenues of nearly \$2.53 billion as of September 30, 2022. Herc Rentals' parent company, known as Herc Holdings Inc., listed on the New York Stock Exchange on July 1, 2016, under the symbol "HRI." Herc Rentals serves customers through approximately 350 locations and has approximately 6,500 employees in North America.

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locations and has approximately 6,500 employees in North America.

We serve a diverse group of customers in a wide array of industries. We support professional contractors in construction and remediation. Our industrial customers include large industrial plants, refineries and petrochemical operations, automotive and aerospace manufacturers. We support government and infrastructure projects at the municipal, state and federal level. And, we continue to expand our services for customers in commercial and retail, healthcare, hospitality, recreation, and entertainment and special events.

Short Description

As a Herc Rentals ProSales Associate you will begin a fast-track learning journey through the Black & Gold Academy. We will prepare you for immediate placement into a Territory Sales Representative or Senior Operations Coordinator position with opportunity for future roles in branch management, region sales management, national accounts and more!

Responsibilities

Our ProSales Associate position offers candidates the opportunity to:

- Enter a fast-track sales OR operational development program
- Build on basic sales and leadership skills to become a talented sales or operations professional
- Learn about the equipment rental industry and gain knowledge of a wide variety of the equipment we rent and sell
- Work alongside our leadership and sales team to visit customer job sites and make sales calls as well as learning our branch operations
- Contribute to the revenue growth of a sales territory
- Gain exposure to specialty divisions within the company such as National Accounts, Industrial Sales, Entertainment Services and Energy Services

Requirements

Professional Experience

- 0-5 years of general sales experience, preferably from the retail, telecommunications, or light industrial markets. You may also be a recent graduate from a sales, business, or related program

Educational Background

- Associate or Bachelor's degree preferred

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• Associate or Bachelor's degree preferred

Conditions of Employment

- Valid driver's license
- Desire to enter a sales or branch operations career

Skills

- Ability to work as part of a team
- Self-motivated and competitive personality
- Understands the importance of time management

Herc Rentals values its employees and provides excellent compensation and benefits packages which are not limited to the following.

Keeping you healthy

Medical, Dental, and Vision Coverage
Life and disability insurance
Flex spending and health savings accounts
Virtual Health Visits
24 Hour Nurse Line
Healthy Pregnancy Program
Tobacco Cessation Program
Weight Loss Program

Building Your Financial Future

401(k) plan with company match
Employee Stock Purchase Program

Life & Work Harmony

Paid Time Off (Holidays, Vacations, Sick Days)

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Life & Work Harmony
Paid Time Off (Holidays, Vacations, Sick Days)
Paid parental leave.
Military leave & support for those in the National Guard and Reserves
Employee Assistance Program (EAP)
Adoption Assistance Reimbursement Program
Tuition Reimbursement Program
Mechanic Tool reimbursement of up to \$300 per year
Auto & Home Insurance Discounts

Protecting You & Your Family
Company Paid Life Insurance
Supplemental Life Insurance
Accidental Death & Dismemberment Insurance
Company Paid Disability Insurance
Supplemental Disability Insurance
Group Legal Plan
Critical Illness Insurance
Accident Insurance

Herc does not discriminate in employment based on the basis of race, creed, color, religion, sex, age, disability, national origin, marital status, sexual orientation, citizenship status, political affiliation, parental status, military service, or other non-merit factors.

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